IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY NINTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT:

THE HON'BLE SRI JUSTICE B. SUDERSHAN REDDY

And

THE HON'BLE SRI JUSTICE C.V. RAMULU

WRIT PETITION No.7673 of 2005

Between:

M. Bharathi Devi, W/o. M. Ratna Rao,
R/o. H.No. 12-2-823A/111,

Santhosh Nagar Colony, RK Apartments,
Mehdipatnam, Hyderabad.

..... PETITIONER

AND

1) The Commissioner of Police, Hyderabad.

2) The Sub Inspector of Police, Raidurgam Police Station,

Ranga Reddy District.

3) The Commissioner of Police, Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an Order, direction, or a writ, more particularly one in the nature of Writ of Habeas Corpus directing the Respondents to produce the daughter of the petitioner herein viz., N. Divya Madhuri before this Hon'ble Court who was kidnapped by one T. Sri Hari Rao P.C. 1457, R/o. 'C' Coy, I Bn. APSP., Hyderabad since February 2003, who also took her away forcibly to Visakhapatnam and is supported by the Police Department and set her at liberty forthwith.

Counsel for the Petitioner: Party-in-Person.

Counsel for the Respondents: THE ADVOCATE GENERAL

The Court made the following :

ORDER:(Per Hon'ble Sri Justice B. Sudershan Reddy)

This Writ of Habeas Corpus is taken up on the basis of the letter addressed by the petitioner Smt. M. Bharathi Devi resident of Santhosh Nagar Colony, R.K. Apartments, Mehdipatnam, Hyderabad, presently working as Senior Assistant in State Bank of India, Khairatabad Branch, Hyderabad, in which it is alleged that her daughter N. Divya Madhuri was kidnapped in December, 2002 by one T. Sri Hari Rao who is a married person having wife and two children. The said Sri Hari Rao stated to be a Police Constable. That a complaint was lodged against him in January 2003 in Raidurgam Police Station, Ranga Reddy District, but no action was taken. It is stated that her daughter N. Divya Madhuri told the Sub-Inspector of Police during the course of investigation that she was kidnapped by T. Sri Hari Rao and was kept with him for a period of one month at Visakhapatnam. She took the custody of her daughter from the Police and taken to her house. It is alleged that T. Sri Hari Rao again taken her daughter from her house in February, 2003 and she lodged a complaint. That even after two years, her daughter is not brought back. The said Sri Hari Rao was kept under suspension pending enquiry. But he is being supported by the Sub-Inspector of Raidurgam Police Station.

It is under those circumstances, the present application has been filed by the petitioner with a prayer to issue Writ of Habeas Corpus directing the respondents to produce her daughter before this Court.

In response to the directions issued by this Court, the alleged detenue N. Divya Madhuri is present in the Court.

We have examined her in detail in our chambers as well as in the Court. According to the alleged detenue, she is aged about 24 years and according to the petitioner her daughter is aged about 22 years.

Be that as it may, the alleged detenue is major.

She stated in clear and specific terms that she was not subjected to any kidnap by any person, much less, by

T. Sri Hari Rao, P.C. 1457 of 'C' Coy., A.P.S.P., I Battalion, Yousufguda, Hyderabad. She is not in detention as alleged in the petition filed by the petitioner. She further stated that she is residing at Machilipatnam with her friends on her own free volition and eking her livelihood by getting herself employed in a tailoring firm.

The petitioner having appeared in person insisted that her daughter was kidnapped by T. Sri Hari Rao which fact is denied in emphatic terms by the alleged detenue.

In such view of the matter, it is not possible to hold that the alleged detenue has been illegally detained by T. Sri Hari Rao as alleged by the petitioner. In the circumstances, no Writ of Habeas Corpus lies since the alleged detenue being major is entitled to choose as to where she desires to live. The alleged detenue in clear and categorical terms stated before us that under no circumstances, she is willing to stay with her mother since according to her, her mother subjected her to harassment. It is not necessary to go into the question as to whether she has been subjected to any harassment. But suffice it to note that she does not want to reside any more with the petitioner. It is for the petitioner's daughter

N. Divya Madhuri to decide for herself as to where she wants to live.

For the aforesaid reasons, we find no merit in this petition and the same is

accordingly closed.

_____

B. SUDERSHAN REDDY, J

Date:29-04-2005.

_____

C.V. RAMULU, J

PV

To

1) The Commissioner of Police, Hyderabad.

2) The Sub Inspector of Police, Raidurgam Police Station,

Ranga Reddy District.

3) The Commissioner of Police, Visakhapatnam.

4) Two C.Cs. to the Advocate General, High Court of A.P.,

Hyderabad (O.U.T.).

5) Two C.D. copies.